IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 345/2006

MANOJ KUMAR SOLANKI Vs. ANITA & ANR.

Date of order: 18.01.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Ashish Saksena for the petitioner.
Mr. Shailesh Kumar Panwar for
Mr. Surendra Sharma for the respondents.

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The present revision petition under Section 397 Cr.P.C. is directed against the judgment dated 06.03.2006 passed by the Family Court, Kota in Misc. Criminal Case No. 75/2002, whereby the application of the respondents moved under Section 125 Cr.P.C. has been allowed and maintenance of Rs. 1,000/- each to the wife and son of the petitioner from the date of filing of the application i.e. 15.01.2002 has been granted.

Brief facts of the case are that marriage took place between the petitioner and respondent No.1 Anita and out of their wedlock, a son was born while the respondent No.1 was residing with her parents at Kota. The wife of the petitioner along with her son is residing at her parent house at Kota. The respondent wife filed an application under Section 125 Cr.P.C.

before the Family Court, Kota and the Family Court vide its judgment dated 06.03.2006 while allowing the application, has granted maintenance of Rs. 1,000/- each to the wife and son of the petitioner from the date of filing of the application i.e. 15.01.2002.

It is contended on behalf of the petitioner that the said impugned judgment has been passed without affording proper opportunity to the petitioner as the ex-parte order was set-aside on 06.03.2006, both the parties were examined and arguments were heard and the application under Section 125 Cr.P.C. was allowed on the same day and the entire proceedings were conducted on 06.03.2006. Thus, the petitioner was not afforded opportunity to defend his case, though he has shown that he is working at the Studio and only getting Rs. 1500/- per month and the allowance of Rs. 100/- for night duty. Looking to the income of the petitioner, maintenance of Rs. 1,000/- each to the wife and son of the petitioner has not been properly assessed and, thus, looking to his earning, maintenance which has been awarded is excessive.

I have considered the rival submissions of the respective parties and carefully gone through the impugned judgment dated 06.03.2006 passed by the Family Court, Kota.

I am not convinced with the submissions made on behalf of the petitioner that no opportunity was afforded to the petitioner, whereas the petitioner has categorically submitted that he is doing the business of property dealer, but on account of loss in the profession he is compelled to serve as Photographer at the Studio and is only getting Rs. 1500/- per month and Rs. 100/- as allowance for night duty.

All aspects have been examined by the Family Court and looking to the facts and circumstances of the case as also the income of the petitioner, maintenance of Rs. 1,000/- each to the wife and son of the petitioner has been awarded, which cannot be said to be excessive. Thus, I find no merit in the revision petition.

Consequently, the revision petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

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